

**United States Bankruptcy Court
Central District of California
San Fernando Valley
Judge Victoria Kaufman, Presiding
Courtroom 301 Calendar**

Wednesday, October 26, 2016

Hearing Room 301

9:30 AM

1:16-10543 Dean Albert Maury Cazares

Chapter 7

#1.00 Motion for relief from stay [AN]

CHRISTIAN OLDE WOLBERS AND RAYMOND HERRERA
VS
DEBTOR

fr: 8/3/16(stip); 9/7/16(stip); 10/5/16(stip)

Docket 34

Tentative Ruling:

The Court will grant in part and deny in part Christian Olde Wolbers's and Raymond Herrera's (collectively, "Movants") motion for relief from stay.

Movants allege the following facts in their motion:

The Debtor formed the band, Fear Factory, with Herrera and Burton Bell. Wolbers joined Fear Factory in 1994. [Castruita Decl., ¶ 2.]

In approximately 2003, the Debtor left the band at which time the Debtor, Herrera, Bell and Wolbers were each 25% owners of Fear Factory, Inc. Upon the Debtor's departure, the band attempted to create agreements pertaining to the allocation of assets and income in connection with selling and performing music, other rights, and other allocations typical to band separation. Thereafter, the Debtor, Bell, and Wolbers created Archetype Music, Inc. to receive income related to Fear Factory's selling and performing music not connected with the Debtor. [*Id.*, ¶ 3.]

On March 24, 2009, Bell, the Debtor, and Oxidizer, Inc., a company created by Bell and the Debtor, sued Herrera, Wolbers, Fear Factory Inc. and Archetype for declaratory relief claiming only the Debtor, Bell and Oxidizer Inc. were entitled to use the trademark Fear Factory and other rights that go along with the name exclusively. This led to agreement among the Debtor, Bell, Herrera and Wolbers signed on

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March 15, 2011 (the "Agreement") which stated Bell and the Debtor could perform under the name Fear Factory as long as certain percentages of income, including touring income, was paid to Wolbers and Herrera. [*Id.*, ¶ 4.]

On April 29, 2014, Movants filed a first amended complaint in state court against Bell and the Debtor, alleging various causes of action arising from an alleged breach of the 2011 Agreement. [*Id.*, ¶ 3, Exh. A.]

On October 15 and 16, 2015, the parties entered into a stipulated judgment, under which the parties agreed that the state court would find that Bell and the Debtor were jointly and severally liable for \$214,307.24 in damages, and that the state court would retain jurisdiction to award attorney's fees and costs. The stipulated judgment was signed by Judge Richard E. Rico and entered on December 16, 2015, with the amount of fees and costs left blank. [Castruita Decl., ¶ 5, Exh. C.]

On February 16, 2016, Movants filed a motion for attorney's fees in state court ("Attorney's Fees Motion"). [Castruita Decl., ¶ 6, Exh. D.] The Attorney's Fees Motion was set for hearing on April 16, 2016. [*Id.*] However, before the Attorney's Fees Motion could be heard, the Debtor filed this chapter 7 case on February 25, 2016. The 341(a) meeting was originally scheduled for March 25, 2016, and continued to May 27, 2016, after the date of the state court hearing on the Attorney's Fees Motion. [Castruita Decl., ¶ 7.]

Movants further allege that the filing of the Debtor's case was done to delay with and interfere with the state court's ruling on the Attorney's Fees Motion.

In light of the foregoing, the Court finds that there is cause under 11 U.S.C. § 362(d) (1) to modify the automatic stay to allow the state court to hear, and enter a ruling on, the Attorney's Fees Motion. The state court litigation exclusively involves questions of state law and much of the litigation has concluded, to the point where a stipulated judgment has been entered and the amount of damages set. However, the automatic stay will remain in place as to the enforcement of the eventual state court judgment (inclusive of any attorney's fees and costs awarded) against the Debtor or the Debtor's

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Chapter 7

bankruptcy estate, absent further order of this Court. Notwithstanding the foregoing, Movants will retain the right to file a proof of claim under 11 U.S.C. § 501.

Any other request for relief is denied.

Movants must submit the order within seven (7) days.

Party Information

Debtor(s):

Dean Albert Maury Cazares

Represented By
Ian Landsberg

Movant(s):

Christian Olde Wolbers

Represented By
Larry Castruita

Raymond Herrera

Represented By
Larry Castruita

Trustee(s):

Diane Weil (TR)

Represented By
C John M Melissinos

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1:14-14686 Elmer Alexander Uceda

Chapter 7

#2.00 Motion for relief from stay [RP]

NEWTEK BUSINESS SERVICES, INC.
VS
DEBTOR

fr. 9/16/15 (stip); 11/18/15(stip); 12/23/15; 2/10/16;
6/15/16 (stip); 7/20/16; 8/24/16; 9/21/16(stip)

Order appr stip to cont ent 10/21/16

Docket 78

***** VACATED *** REASON: Continued to 11/23/16 at 9:30 a.m. per
order entered on 10/21/16 [doc. 266]**

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

Elmer Alexander Uceda

Represented By
Michael A Rivera

Movant(s):

NEWTEK BUSINESS SERVICES,

Represented By
Patricia H Lyon

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1:14-13456 Gingko Rose Ltd.

Chapter 11

#3.00 Motion for relief from stay [AN]

NORA AND EDEN DARWISH
VS
DEBTOR

fr. 5/18/16; 8/3/16; 8/17/16; 8/24/16; 9/7/16

Docket 319

Tentative Ruling:

Tentative from 9/7/16:

In accordance with the *Order Continuing Hearings Scheduled for August 24, 2016 to September 7, 2016* [doc. 340], appearances on September 7 are excused. The hearing is continued to **October 26, 2016 at 9:30 a.m.**

Tentative from 8/17/16:

This hearing will be continued to **August 24, 2016 at 9:30 a.m.**

Appearances on August 17, 2016 are excused.

Tentative from 5/18/16:

The parties should be prepared to discuss the following statement from the movants' Reply and how it could and would be effectuated:

"The bankruptcy court can allow the State Court to adjudicate the Motion to Expunge Lis Pendens but order that the Properties can not be sold, encumbered, or transfereed [sic] by the Debtor In Possession without first obtaining permission from the Bankruptcy Court, to the extent that the Bankruptcy Court finds that these Properties are Property of the Estate."

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CONT... Gingko Rose Ltd.

Chapter 11

Reply of Normee Darwish (aka Norma Darwish) and Eden Darwish to Opposition to Motion for Relief from Stay filed by Creditors at 6 ¶ H [doc. 330].

To determine whether assets held in trust constitute property of the estate, the Court must review the trust documents. *See, e.g., Seror v. Vujic (In re Cutter)*, 398 B.R. 6 (B.A.P. 9th Cir. 2008)(affirming bankruptcy court's determination that property held in "irrevocable" self-settled spendthrift trust was property of the estate when debtor, as trustee, could exercise authority over the res for his own benefit, in accordance with the provisions of the trust).

Party Information

Debtor(s):

Gingko Rose Ltd.

Represented By
Marc A Lieberman
Stephen E Ensberg Esq
Michael R Totaro

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1:16-11618 Gina Elizares Dela Luna

Chapter 7

#4.00 Motion for relief from stay [PP]

MERCEDES-BENZ FINANCIAL SERVICES USA LLC
VS
DEBTOR

Order appr stip re adequate protection ent 10/21/16

Docket 14

*** VACATED *** REASON: APO entered 10/21/16 [doc. 18]

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

Gina Elizares Dela Luna

Represented By
Edgardo M Lopez

Trustee(s):

Amy L Goldman (TR)

Pro Se

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1:16-12332 EDWIN G CABALLERO, Sr.

Chapter 7

#5.00 Motion for relief from stay [PP]

TOYOTA MOTOR CREDIT CORPORATION
VS
DEBTOR

Docket 11

Tentative Ruling:

Grant relief from stay pursuant to 11 U.S.C. § 362(d)(1) and (d)(2).

Movant (and any successors or assigns) may proceed under applicable nonbankruptcy law to enforce its remedies to repossess and sell the property.

The 14-day stay prescribed by FRBP 4001(a)(3) is waived.

Movant must submit order within seven (7) days.

Note: No response has been filed. Accordingly, no court appearance by movant is required. Should an opposing party file a late opposition or appear at the hearing, the Court will determine whether further hearing is required and movant will be so notified.

Party Information

Debtor(s):

EDWIN G CABALLERO Sr.

Pro Se

Trustee(s):

David Seror (TR)

Pro Se

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1:16-12409 Thomas Adam Jakob and Wendy Jean Jakob

Chapter 7

#6.00 Motion for relief from stay [PP]

FORD MOTOR CREDIT COMPANY LLC
VS
DEBTOR

Docket 12

Tentative Ruling:

Grant relief from stay pursuant to 11 U.S.C. § 362(d)(1) and (d)(2).

Movant (and any successors or assigns) may proceed under applicable nonbankruptcy law to enforce its remedies to repossess and sell the property.

The 14-day stay prescribed by FRBP 4001(a)(3) is waived.

This order shall be binding and effective despite any conversion of the bankruptcy case to a case under any other chapter of Title 11 of the U.S. Code.

Movant must submit order within seven (7) days.

Note: No response has been filed. Accordingly, no court appearance by movant is required. Should an opposing party file a late opposition or appear at the hearing, the Court will determine whether further hearing is required and movant will be so notified.

Party Information

Debtor(s):

Thomas Adam Jakob

Represented By
Allan S Williams

Joint Debtor(s):

Wendy Jean Jakob

Represented By
Allan S Williams

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CONT... Thomas Adam Jakob and Wendy Jean Jakob

Chapter 7

Trustee(s):

Diane Weil (TR)

Pro Se

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1:16-12760 Jackie Denise Langer

Chapter 13

#7.00 Motion for relief from stay [UD]

PLAYA VILLAS LLC
VS
DEBTOR

Case dismissed 10/11/2016

Docket 7

Tentative Ruling:

This case was dismissed on October 11, 2016. Grant relief from stay pursuant to 11 U.S.C. § 362(d)(1).

Because the debtor did not timely comply with 11 U.S.C. § 362(l)(1), in accordance with 11 U.S.C. § 362(l)(4), 11 U.S.C. § 362(b)(22) applied immediately upon the filing of the petition in this case. Consequently, the automatic stay imposed by 11 U.S.C. § 362 does not apply to prevent the debtor's landlord from enforcing its prepetition judgment for possession of the debtor's residence.

Movant (and any successors or assigns) may proceed under applicable nonbankruptcy law to enforce its remedies to obtain possession of the property.

The order is binding and effective in any bankruptcy case commenced by or against any debtor who claims any interest in the Property for a period of 180 days from the hearing of this Motion upon recording of a copy of this order or giving appropriate notice of its entry in compliance with applicable nonbankruptcy law.

The 14-day stay prescribed by FRBP 4001(a)(3) is waived.

Movant must submit order within seven (7) days.

Note: No response has been filed. Accordingly, no court appearance by movant is required. Should an opposing party file a late opposition or appear at the hearing, the

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CONT... Jackie Denise Langer

Chapter 13

Court will determine whether further hearing is required and movant will be so notified.

Party Information

Debtor(s):

Jackie Denise Langer

Pro Se

Trustee(s):

Elizabeth (SV) F Rojas (TR)

Pro Se

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9:30 AM

1:15-12787 Rose Jelaca

Chapter 13

#8.00 Motion for relief from stay [PP]

AMERICREDIT FINANCIAL SERVICES, INC.
VS
DEBTOR

Docket 28

Tentative Ruling:

Grant relief from stay pursuant to 11 U.S.C. § 362(d)(1).

Movant (and any successors or assigns) may proceed under applicable nonbankruptcy law to enforce its remedies to repossess and sell the property.

The 14-day stay prescribed by FRBP 4001(a)(3) is waived.

This order shall be binding and effective despite any conversion of the bankruptcy case to a case under any other chapter of Title 11 of the U.S. Code.

Movant must submit order within seven (7) days.

Note: No response has been filed. Accordingly, no court appearance by movant is required. Should an opposing party file a late opposition or appear at the hearing, the Court will determine whether further hearing is required and movant will be so notified.

Party Information

Debtor(s):

Rose Jelaca

Represented By
Rabin J Pournazarian

Trustee(s):

Elizabeth (SV) F Rojas (TR)

Pro Se

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1:11-21421 Joseph Flores Sandoval

Chapter 13

#9.00 Motion for relief from stay [RP]

DEUTSCHE BANK NATIONAL TRUST COMPANY
VS
DEBTOR

Docket 50

Tentative Ruling:

Grant relief from stay pursuant to 11 U.S.C. § 362(d)(1).

Movant (and any successors or assigns) may proceed under applicable nonbankruptcy law to enforce its remedies to foreclose upon and obtain possession of the property.

Movant, or its agents, may, at its option, offer, provide and enter into a potential forbearance agreement, loan modification, refinance agreement or other loan workout or loss mitigation agreement. Movant, through its servicing agent, may contact the debtor by telephone or written correspondence to offer such an agreement. Any such agreement shall be nonrecourse unless stated in a reaffirmation agreement.

The 14-day stay prescribed by FRBP 4001(a)(3) is waived.

Movant must submit order within seven (7) days.

Note: No response has been filed. Accordingly, no court appearance by movant is required. Should an opposing party file a late opposition or appear at the hearing, the Court will determine whether further hearing is required and movant will be so notified.

Party Information

Debtor(s):

Joseph Flores Sandoval

Represented By
Mark J Markus

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CONT... Joseph Flores Sandoval

Chapter 13

Trustee(s):

Elizabeth (SV) F Rojas (TR)

Represented By

Elizabeth (SV) F Rojas (TR)

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9:30 AM

1:11-24381 Eric Stephan and Melissa Stephan

Chapter 13

#10.00 Motion for relief from stay [RP]

WELLS FARGO BANK, NATIONAL ASSOCIATION
VS
DEBTOR

Docket 63

Tentative Ruling:

Grant relief from stay pursuant to 11 U.S.C. § 362(d)(1).

Movant (and any successors or assigns) may proceed under applicable nonbankruptcy law to enforce its remedies to foreclose upon and obtain possession of the property.

Movant, or its agents, may, at its option, offer, provide and enter into a potential forbearance agreement, loan modification, refinance agreement or other loan workout or loss mitigation agreement. Movant, through its servicing agent, may contact the debtor by telephone or written correspondence to offer such an agreement. Any such agreement shall be nonrecourse unless stated in a reaffirmation agreement.

The 14-day stay prescribed by FRBP 4001(a)(3) is waived.

Movant must submit order within seven (7) days.

Note: No response has been filed. Accordingly, no court appearance by movant is required. Should an opposing party file a late opposition or appear at the hearing, the Court will determine whether further hearing is required and movant will be so notified.

Party Information

Debtor(s):

Eric Stephan

Represented By
Steven A Wolvek

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CONT... Eric Stephan and Melissa Stephan

Chapter 13

Joint Debtor(s):

Melissa Stephan

Represented By
Steven A Wolvek

Trustee(s):

Elizabeth (SV) F Rojas (TR)

Pro Se

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9:30 AM

1:12-19119 Irina Torgan

Chapter 13

#11.00 Motion for relief from stay [RP]

U.S. BANK NATIONAL ASSOCIATION
VS
DEBTOR

Docket 77

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

Irina Torgan

Represented By
Elena Steers

Trustee(s):

Elizabeth (SV) F Rojas (TR)

Pro Se

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1:15-13977 Roberta B. Lopez

Chapter 13

#12.00 Motion for relief from stay [RP]

WELLS FARGO BANK, N.A.
VS
DEBTOR

Docket 48

***** VACATED *** REASON: Case dismissed on 10/13/16 [doc. 50]**

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

Roberta B. Lopez

Represented By
Kevin T Simon

Trustee(s):

Elizabeth (SV) F Rojas (TR)

Pro Se